

REMARKS

Claims 1-39 and 41-54 were pending in this application, with claims 1, 2, 10, 11, 13-20, 24-38, 43 and 47-49 being withdrawn from consideration as being directed to a non-elected invention and/or species. By way of this amendment and reply to the Office Action mailed October 16, 2003, claims 3, 5, 6, 8, 12, 45-47, 50, 51, 53 and 54 have been amended, and claims, 39, 40 and 42 have been canceled. Therefore, claims 3-9, 12, 21-23 and 44-54 are presently pending for consideration on the merits.

It is respectfully requested that this after-final amendment and reply be considered and entered, for the following reasons.

1) This amendment and reply is believed to place the application in condition for allowance.

2) This amendment and reply lessens the number of potential issues for appeal.

3) During the Examiner interview conducted on August 27, 2003, it was the understanding of Applicant and Applicant's representative that Examiner Sperty would contact Applicant's representative prior to issuing a final Office Action, to allow Applicant and Applicant's representative the ability to discuss any issues and to amend the claims based on problems found in the claims during the Examiner Interview. For some reason, this did not happen.

*? a 2nd Interview?
I never implied such a thing.*

4) Claims 5, 6 and 12 were not substantively amended in the previously-filed reply, and those claims were not rejected over any art of record in the first Office Action. However, those claims are rejected over art in the current Office Action. Accordingly, since a rejection of these claims was made without any substantive amendments to those claims, the finality of the current Office Action is improper.

The Office Action asserts that claims 47-49 are directed to a non-elected species, but this assertion is incorrect. Independent claim 47 has been amended to recite an attachment device having an affixing element feature, which clearly corresponds to the elected Species 2 of the Office Action mailed March 11, 2003.

Applicant notes with appreciation that claim 22 is not rejected over any art of record. It is also noted that claims 21 and 23 are rejected over a combination of references including the Loeb reference, whereby in Loeb's structure, his bolt is coupled to his card by a wire. In claim 22, on the other hand, a first object is attached to a backer/stabilizer by one of an adhesive material, glue, staple and sewing thread, none of which is disclosed or suggested by Loeb.

In the Office Action, the amendment filed August 1, 2003, was objected to under 35 U.S.C. Section 132 because it allegedly introduces new matter into the disclosure by way of the amendments made to claims 46 and 50-52; and claims 46 and 50-52 were rejected under 35 U.S.C. Section 112, first paragraph, for allegedly failing to comply with the written description requirement. While Applicant does not agree with these assertions, claims 46, 50 and 52 have been amended to render this objection and rejection moot.

In the Office Action, claims 8, 12, 46 and 50-52 were rejected under 35 U.S.C. Section 112, second paragraph, as being indefinite. Claims 8, 12, 46, 50 and 52 have been amended to overcome this rejection. Additionally, in response to the comments made in page 3 of the Office Action, it is submitted that one of ordinary skill in the art would readily understand that heating a plastic piece will cause the plastic piece to change its properties (e.g., melt), to thereby allow an affixing element, such as a metal wire, to be rigidly coupled to the plastic piece. Rigidly coupling means that the metal wire will stay attached to the plastic piece after such a heating operation is performed.

To answer the Examiner's question as to why one would want to melt the backer/stabilizer into a "blob of plastic", it is respectfully submitted that the backer/stabilizer will not necessarily be heated into a "blob of plastic", but that instead the heating of the backer/stabilizer is to provide a rigid coupling of the affixing element to the backer/stabilizer by heating the backer/stabilizer while placing the affixing element against the surface of the backer/stabilizer. This is clearly a desirable thing to do, since one does not have to find a way to couple the affixing element to the backer/stabilizer using a different way of attachment.

Accordingly, contrary to the assertion made in the Office Action, the metes and bounds of presently pending claims 50-52 are very clear, and thus these claims should be examined.

With respect to claims 53 and 54, the allegedly confusing text in claim 53 was included to provide a description of what is the purpose of the opening in the backer/stabilizer.

However, in the interest of clarity and in the interest of expediting prosecution, claim 53 has been amended to remove the allegedly confusing language in that claim. Also, "adapted" has been removed from the end of that claim as well.

Accordingly, contrary to the assertion made in the Office Action, the metes and bounds of presently pending claims 53 and 54 are very clear, and thus these claims should be examined

Claims 39, 41 and 42 Rejection over Command Strip:

In the Office Action, claims 39, 41 and 42 were rejected under 35 U.S.C. Section 102(b) as being anticipated by 3M's Command Strip Adhesive. Due to the cancellation of claims 39, 41 and 42, this rejection is now moot.

Claims 3 and 5-6 Rejection over Anders:

In the Office Action, claims 3 and 5-6 were rejected under 35 U.S.C. Section 102(b) as being anticipated by U.S. Patent No. 4,633,215 to Anders. This rejection is respectfully traversed.

Claim 3 has been amended to recite that the backer/stabilizer is a semi-rigid element. Such a component is not disclosed or suggested in Anders, which only describes rigid components to hold a HELP flag in place on a hood of a disable vehicle.

Claims 3, 4 and 7 Rejection Over Dictionary in view of Santa Cruz, Selga, Leppert:

In the Office Action, claims 3, 4 and 7 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over the American Heritage Dictionary in view of Santa Cruz, Selga,

and Leppert. This is the same rejection made in the previous Office Action. This rejection is respectfully traversed.

The Office Action asserts that there exist well known methods of attaching Velcro that include a double-sided sticky foam tape that is analogous to Applicant's claimed backer/stabilizer.

This assertion is incorrect, since a double-sided sticky foam tape does not correspond in any way, shape or form to a backer/stabilizer described in the specification and recited in the claims. In more detail, the claimed backer/stabilizer is a semi-rigid element, as explained in paragraph [0066] of the specification. In this regard, the backer/stabilizer has a sufficient amount of rigidity in order to provide stability and backing to an object that is to be releasably attached to another object. A floppy foam adhesive tape clearly does not meet these features. For example, one can readily change the size and shape characteristics of a foam adhesive tape by rolling the foam adhesive tape on ones' fingertips. The claimed backer/stabilizer has a much more sturdy construction, and can only be bent or shaped differently with a reasonable amount of effort on the part of a user. For example, a backer/stabilizer may be implemented as a plastic "credit card size" component, as described on page 14 of the specification.

In the Response to Arguments section on page 11 of the Office Action with respect to claim 7, the Examiner asserts that Applicant have not provided "evidence comparing the rigidity of the claimed materials with that of the foam tape of the prior art, therefore the argument is moot. Card stock, for instance, comes in different weights, the lightweight card stock being less sturdy than foam tape."

In reply to the Examiner's response, the claimed backer/stabilizer must be interpreted in light of how it is claimed and how that element is described in the specification. The claimed backer/stabilizer provides backing and stability for an object, such a bow or ribbon, and in that regard it must have some amount of rigidity that is much more than an adhesive foam tape or a very thin card stock. To force Applicant to provide tangible evidence in that regard is just plain wrong, since Applicant is not a scientist and since the statement made by Applicant is clearly evident to one skilled in the art.

Additionally, with respect to claim 4, the previous Office Action (as incorporated into the current Office Action) contends that Santa Cruz, Selga or Leppert teach different ways of attaching an attachment means, such as by sewing, gluing, or foam adhesive. However, please note that claim 4 recites that the "means for attaching" includes at least one of stapling, gluing, sewing, tying and taping the backer/stabilizer to the first object. (emphasis added) Thus, in claim 4, it is not the attachment means that is being attached to the first object, but rather it is the backer/stabilizer itself that is being attached to the first object. In other words, why would someone want to sew or glue a foam portion of an adhesive strip, which the Office Action contends is a backer/stabilizer, to another object? Applicant submits that one would have no motivation to do this, since it would serve no purpose. Also, the foam portion of an adhesive tape is not nearly rigid enough to allow one to do this, even if one had some strange reason to do this.

In the Response to Arguments section on page 11 of the Office Action, the Examiner states that claim 4 does not require that the means for attaching the backer/stabilizer is a separate entity from the backer/stabilizer itself. Applicant respectfully disagrees, since under standard claim construction, if elements A and B are recited in a claim, those elements are to be interpreted as being different elements unless there is something to the contrary recited in the claims (e.g., something to the effect that "elements A and B are integral with each other"). Thus, the Examiner's statement regarding claim 4 is incorrect.

Accordingly, claims 3, 4 and 7 are patentable over the cited art of record.

Rejection of Claims 8, 9 and 21 over Loeb, Omholt and Leppert:

In the previous Office Action (as incorporated into the current Office Action), claims 8, 9 and 21 were rejected as being obvious over U.S. Patent No. 2,424,762 to Loeb in view of U.S. Patent No. 4,993,783 to Omholt and U.S. Patent No. 5,123,139 to Leppert. This rejection is traversed with respect to presently pending claims 8, 9 and 21, for at least the reasons given below.

Loeb discloses a card (presumably fairly rigid) 11 that is used to hold a display element, such as a barrel bolt 10, as seen in the figures of Loeb. In Loeb, the wire 12 is

twisted to form an endless circle (an endless elongated band of wire), and the looped ends fit through slots and are folded back to secure the lock to the display card 11.

Presently pending claim 8, however, recites that the first end of the affixing element is fitted through the first opening of the backer/stabilizer and the second end of the affixing element is fitted through the second opening of the backer/stabilizer, and that the first and second ends of the affixing element are coupled together to provide a coupling of the first object to the backer/stabilizer.

Thus, even if one assumes for argument sake that Loeb's card 11 corresponds to a backer/stabilizer (which Applicant submits is not the case, since the card 11 is not used to provide backing for or to stabilize the bolt 10, but rather it provides a means to display the bolt 10 in a department store, for instance), the ends of Loeb's wire 12 are coupled together at the front of the card 11, and thus the ends of the wire 12 do not pass through any openings on the card 11.

Loeb's way of adhering a wire 12 to a card 11 may cause the device being held in place on the card 11 to fall off the card 11 if the looped ends of the wire 12 (which are fitted through slots on the card 11) are not sturdy enough or long enough. The present invention according to claim 8, on the other hand, provides for a much more secure coupling of the affixing element to the backer/stabilizer.

In the Response to Arguments section on page 11 of the Office Action, the Examiner states "Regardless of how many ends pass through an opening it remains that the product of the prior art includes a card (backer) with a wire passing therethrough, the ends of the wire being coupled together. Absent a showing of a patentable difference between the prior art and that of the instant claims no patentable distinction is seen." Applicant respectfully disagrees with the Examiner's statement. In any event, due to the amendment made to claim 8 to recite two openings in the backer/stabilizer with a respective end of the affixing element being fitted through a respective opening of the backer/stabilizer and then tied together, the claimed structure is clearly much different than the structure of Loeb.

Furthermore, it is submitted that it is not necessary to submit evidence of the claimed coupling of an affixing element to a backer/stabilizer being better than the way a wire is coupled to card in Loeb's device, since it is clear to one skilled in the art that the claimed coupling is better, and that the coupling of Loeb as compared to the claim 8 are very much different from each other.

Since Loeb does not meet all of the limitations of claim 8, and since none of the other cited art of record makes up for the above-mentioned deficiencies of Loeb, claim 8 is patentable over the cited art of record.

Similarly, the 'backer/stabilizer' feature of claim 21 is not disclosed in Loeb or in any of the other cited art of record, and thus claim 21 is patentable over the cited art of record.

Rejection of Claim 23 over Loeb, Omholt, Leppert, Santa Cruz and Selga:

Claim 23 was rejected under 35 U.S.C. Section 103(a) as being unpatentable over Loeb, Omholt and Leppert, and further in view of Santa Cruz and Selga, for the reasons set forth in the previous Office Action. This rejection is traversed for at least the reasons given below.

Due to the amendment made to claim 23 so that it now depends from non-rejected claim 22, this rejection is now moot.

Rejection of Claims 3 and 5-6 over Hayduchok:

Claims 3 and 5-6 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over U.S. Patent No. 5,165,549 to Hayduchok. Due to the amendments made to claim 3 to recite that the backer/stabilizer is a semi-rigid element, as well as the amendment made to the "means for attaching", it is believed that claim 3 patentably distinguishes over the disclosure of Hayduchok.

Rejection of Claims 12 and 44-46 over Loeb, Omholt and Leppert:

In the Office Action, claims 12 and 44-46 were rejected over the combined teachings of Loeb, Omholt and Leppert, for the reasons set forth in the previous Office Action. This rejection is respectfully traversed.

With regard to claim 12, since Loeb ties the ends of his wire 13 on a front side of his card 11, and since that seems to work well for the purposes of Loeb's display card, it is submitted that one of ordinary skill in the art would not be motivated to utilize the structures of Dion and Reiner or to otherwise incorporate a channel portion in a back side of Loeb's card 11, since there is no reason to do so. It appears that the Examiner is improperly applying hindsight reconstruction of the claimed invention with respect to claim 12.

The Office Action asserts that it would have been obvious to one of ordinary skill in the art to form channels on the back of the card so that the card was flush with the Velcro pad and consequently with the display surface of Omholt. Applicant respectfully disagrees.

The channel of claim 12 is a very useful feature, in that it serves two purposes. One purpose is to keep the tied ends of the affixing element hidden from view, and the second purpose is to help maintain the tied ends of the affixing element (and therefore the affixing element itself) in place between the backer/stabilizer and an attachable/reattachable unit.

In claims 12 and 44-46, the tied ends of the affixing element are provided in a channel between a backer/stabilizer (with its channel) and another component. In Reiner and Dion, on the contrary, a band is provided between symmetrical top and bottom halves of a same element, and thus it is submitted that the assertion made in the Office Action and the disclosures of Reiner and Dion are not pertinent to the invention recited in claims 12 and 44-46.

Again, since the tied ends of Loeb's wire are provided on a front side of his display card, it is submitted that one of ordinary skill in the art would not be motivated to provide channels on the back side of his display card for the portions of his wire that fit through the openings in his display card, without prior knowledge of the present invention. There is no disclosure or suggestion in either Loeb or Omholt of there being a problem with having a wire disposed between one component and another component, to thereby require a channel to

provide a smooth coupling of those two components. In Reiner and Dion, the channel is utilized to fit an elastic band between top and bottom parts of a same component, and thus these references are not pertinent to the claimed invention.

Therefore, since there are no other objections or rejections in the Office Action to be addressed, Applicant believes that the present application is now in condition for allowance, and an early indication of allowance is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date December 1, 2003

By Phillip J. Articola

FOLEY & LARDNER
Customer Number: 22428



22428

PATENT TRADEMARK OFFICE

Telephone: (202) 672-5300
Facsimile: (202) 672-5399

Phillip J. Articola
Attorney for Applicant
Registration No. 38,819